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Foreword: Latinos and the Law Symposium

RICHARD DELGADO & JEAN STEFANCIC*

MEMORANDUM

To: Ourselves
Cc: Interested Readers
Re: Our Plans and New Year's Resolutions for Future Scholarship on Latinos

Explanation: The role of SNOOPING

The reason for the carbon copy to interested readers is that we have learned, as we have gone through life, that other people may be highly resistant to advice—"you really should do this"—but highly receptive to gossip—"I'm getting ready to do that." In particular, people like to *snoop*: to read other people's diaries, listen in to intimate conversations when they can do so without attracting notice, and check discreetly into what other people are up to.¹

So, dear reader, the following are some plans and ideas that the two of us have formulated for our own future scholarship having to do with Latinos. If you have any interest in our agenda and what we have learned, or think we have learned, from our work on civil rights,² critical race theory,³ and Latino legal scholarship,⁴ please feel free to listen in. This memo is partly for you.

You are completely free to ignore any or all of it. As we said, it is largely for our own benefit. We tend to lose things, so we figure if this memo appears in print somewhere, we can always look it up on Lexis or Westlaw. If you see anything you think you can use, please feel free to borrow or steal it. We quitclaim it to you in perpetuity, as they say.

1. Latino Legal Scholarship: There is, Indeed, a There There

One thing we plan to hold at the forefront of our consciousness is that Latinos and the law does, indeed, exist and is a valid and coherent subject of study. It needs no

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1. See, e.g., *Katz v. United States*, 389 U.S. 347 (1967) (holding that the Fourth Amendment does not bar warrantless wiretapping); NATHANIEL HAWTHORNE, *THE SCARLET LETTER* (1850) (recounting how the narrator discovered papers documenting evidence against adulteress Hester Prynne).

2. E.g., RICHARD DELGADO & JEAN STEFANCIC, *UNDERSTANDING WORDS THAT WOUND* (2004) (discussing legal measures against hate speech of various types).

3. E.g., RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* (2001) (discussing organizational history and main themes of this area of law).

4. E.g., *THE LATINO/A CONDITION: A CRITICAL READER* (Richard Delgado & Jean Stefancic eds., 1998).

apology, no dressing up as an appendage or subset of something else, such as civil rights, constitutional law, or even LatCrit.

More than a congeries of topics such as immigration law, asylum, family unification, language rights, ancient land claims, and bilingual education, Latino studies is also more than a collection of disparate “themes,” much like critical race theory (revisionist history, critiques of liberalism, racism as ordinary and not aberrant, and so on).

Some of what we see as the main structural outlines of this body of law appears below. But the main thing we want to keep in mind is that Latino civil rights is not just a small corner of civil rights law, especially the kind coined with African Americans in mind. Latino history, social and legal construction, and current problems differ from those of our black friends.⁵ Although the two bodies of law overlap in some ways—for example, both groups want to expand affirmative action and stop police profiling—the differences dwarf the similarities. Juan Perea has it exactly right when he points out that the black-white binary paradigm of race can easily cause us to lose sight of these vital differences and the way the two groups stand on different footings—legally, historically, and politically.⁶

For example, in the United States, Latinos are now more numerous than African Americans (or any other group of color) and nearly as poor. Their school dropout and medical-insurance rates are worse,⁷ as well as their rates of political representation.⁸ On a combined index of social well-being that includes health, longevity, incarceration,⁹ income, and a number of other factors—U.S. Latinos, considered as a nation, ranked thirty-fifth in the world. African Americans ranked thirty-first.¹⁰

What follows from this? First, Latino legal scholarship needs to forge its own path. We should have friendly relations with groups like LatCrit, which concerns itself with a wider range of issues than Latinos and devotes attention to rotating centers, intersectional categories, and relations with other groups.¹¹ But the best way to

5. See, e.g., Richard Delgado, *Rodrigo's Fifteenth Chronicle: Racial Mixture, Latino-Critical Scholarship, and the Black-White Binary*, 75 TEX. L. REV. 1181 (1997); Juan F. Perea, *The Black/White Binary Paradigm of Race: The “Normal Science” of American Racial Thought*, 85 CAL. L. REV. 1213 (1997).

6. Perea, *supra* note 5; see also JUAN F. PEREA, RICHARD DELGADO, ANGELA P. HARRIS, STEPHANIE M. WILDMAN, & JEAN STEFANCIC, *RACE AND RACES: CASES AND RESOURCES FOR A DIVERSE AMERICA* (2d ed. 2007) (analyzing histories and legal fortunes of several groups of color and white ethnics).

7. Latino graduation rate is only about fifty-three percent. See Jose A. Villalba, Patrick Akos, Kara Keeter & Abigail Ames, *Promoting Latino Student Achievement and Development through the ASCA National Model*, PROFESSIONAL SCHOOL COUNSELING, June 1, 2007, at 464. The African American rate is considerably higher. See Thomas C. Williams, Editorial, *Black Culture Beyond Hip-Hop*, WASH. POST, May 28, 2007, at A17 (“[T]he African American high school graduation rate has stagnated at 70 percent for the past three decades.”).

8. See Gary Long, *UTB-TSC Celebrates King's Life*, BROWNSVILLE HERALD (Tex.), Jan. 31, 2008.

9. Joan K. Magilvy, Joann G. Congdon & Ruby J. Martinez, *Caring for our Own: Health Care Experiences of Rural Hispanic Elders*, 2 J. OF AGING STUD. 171 (2000).

10. Cass Sunstein, *Well-Being and the State*, 197 HARV. L. REV. 1303, 1321 (1994); UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 1993, at 136, tbl.1.

11. LatCrit: Latina & Latino Critical Legal Theory, Inc., <http://www.latcrit.org> (listing the

develop Latinos and the law as a field is to focus on the set of concerns that affect Latinos as Latinos. In short, concentration on Latinos—Latino essentialism, if you will—will be a necessary component of scholarship that seeks to understand and advance the Latino condition. Almost all the pieces in this symposium exhibit this desirable focus.¹²

2. Framework and Theory

Latino scholarship, including our own, needs to develop its own theoretical framework and proceed within it. The reason is largely historical and has to do with a set of power relations. For African Americans, the founding experience was slavery and, a little later, Jim Crow. For Latinos, it was Conquest—U.S. seizure of the American Southwest in a war of aggression against Mexico, and of Puerto Rico a few decades later in a second war, this time against Spain.¹³

This means that Latino legal scholarship needs to proceed with this unique history in mind. As we have written more than once, Latinos are not just blacks with slightly lighter skin.¹⁴ Their problems and issues do not stem from slavery and its legacy, but from Conquest and its progeny—suppression of culture and language, social exclusion, and forced assimilation to an Anglo norm. Their stereotypes and media images differ from those that society has imposed on blacks and other minorities. Their difficulties at work, in schools, and in political life often take different forms, as well.¹⁵

Latino legal scholars must thus be alert to ways in which the reigning civil rights paradigm, based largely on the Thirteenth and Fourteenth Amendments and enabling legislation, does not easily lend itself to addressing Latino causes. It is difficult, for example, to redress language suppression taking the form of English-only rules as a badge or incident of slavery.¹⁶ It is, rather, a badge or incident of Conquest and a set of practices and social attitudes that developed in its wake. A body of civil rights statutes and case law coined with the black experience in mind will not easily encompass forms of oppression nor a host of indignities Latinos endure, including discrimination based on a foreign accent, a foreign-sounding name, an inability to speak English, an

organization's tenets and activities). On the LatCrit movement, see Keith Aoki & Kevin R. Johnson, *An Assessment of LatCrit Theory Ten Years After*, 83 IND. L.J. 1151 (2008); Margaret E. Montoya & Francisco Valdes, "Latinas/os" and *The Politics of Knowledge Production: LatCrit Scholarship and Academic Activism as Social Justice Action*, 83 IND. L.J. 1197 (2008).

12. On the role of essentialism in social change, see Richard Delgado, *Rodrigo's Sixth Chronicle: Intersections, Essences, and the Dilemma of Social Reform*, 68 N.Y.U. L. REV. 639 (1993).

13. See, e.g., PEREA ET AL., *supra* note 6 (detailing this history); Luis Fuentes-Rohwer, *The Land that Democratic Theory Forgot*, 83 IND. L.J. 1525 (2008).

14. E.g., Richard Delgado, *Linking Arms: Recent Books on Interracial Coalition as an Avenue of Social Reform*, 88 CORNELL L. REV. 855, 874 (2003).

15. See RICHARD DELGADO, JUAN F. PEREA & JEAN STEFANCIC, *LATINOS AND THE LAW: CASES AND MATERIALS* (forthcoming, West/Thompson Pub. Co., 2008) (detailing all these differences).

16. See generally Juan F. Perea, *Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English*, 77 MINN. L. REV. 269 (1992); Ángel R. Oquendo, *Straight From the Mouth of the Volcano: The Lowdown on Law, Language, and Latin@s*, 83 IND. L.J. 1481 (2008).

immigrant (or presumed immigrant) status, or even—in the case of Cubans and Puerto Ricans with Santería—an exotic and unfamiliar religion.¹⁷

3. Connections with World Movements

Sometimes one can best understand one's own condition by noticing what is taking place elsewhere. U.S. Latinos are not the only people who have suffered conquest and colonization. In particular, a loose but impressive group of postcolonial scholars in Africa, South Asia, and, now, Latin America write about the condition of colonized and previously colonized people.¹⁸ Addressing such themes as resistance, co-optation, history, cultural preservation, and language rights, these scholars make up a broad movement in many ways similar to the American civil rights community.¹⁹

Their problems and issues are, in many ways, ours writ large: preserving mental health while in a subordinate status, resisting illegitimate authority, and maintaining culture and tradition in the face of a powerful invading force.²⁰ We have mined, and plan to continue to mine, themes, ideas, and narratives from such authors as Albert Memmi, Arundhati Roy, Trinh Minh-ha, and Frantz Fanon and to explore ways in which the experience of Indian intellectuals, in the wake of British rule, parallels ours.²¹ Latin America today is in the midst of a socialist revolution. What does this mean for U.S. domestic and foreign policy, and can subordinate groups like U.S. Latinos find opportunities for advancement comparable to those that Derrick Bell identified in the period leading up to *Brown v. Board of Education*?²²

4. The Role of Struggle

Our reading and writing have taught us that the history of Latinos is in many respects not one of the immigrant path, not assimilation, not "many contributions," but one of struggle. Ian Haney López is right about that.²³ It is practically a correlate of the First Law of Social Thermodynamics: one act of oppression begets an equal and opposite reaction. People everywhere desire freedom and seek dignity.²⁴ Whenever you find a war of aggression, a racist immigration quota, or an English-only law, look

17. See DELGADO ET AL., *supra* note 15 (setting out the inadequacy of existing theories to redress these and other injuries).

18. See, e.g., THE POST-COLONIAL STUDIES READER (Bill Ashcroft et al. eds., 2d ed. 2006); Chantal Thomas, *Critical Race Theory and Postcolonial Development Theory: Observations on Methodology*, 45 VILL. L. REV. 1195 (2000).

19. See THE POST-COLONIAL STUDIES READER, *supra* note 18; Richard Delgado, *Rodrigo's Corrido: Race, Postcolonial Theory, and U.S. Civil Rights*, 60 VAND. L. REV. 1691 (2007) [hereinafter Delgado, *Rodrigo's Corrido*]; Thomas, *supra* note 18.

20. See Delgado, *Rodrigo's Corrido*, *supra* note 19.

21. *Id.* (reviewing the work of these authors and explaining their relevance to U.S. domestic civil rights struggles).

22. Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980).

23. IAN F. HANEY LÓPEZ, *RACISM ON TRIAL: THE CHICANO FIGHT FOR JUSTICE* (2003) (recounting how sixties-era community activism gave rise to a new Chicano identity).

24. See, e.g., PEREA ET AL., *supra* note 6, at 323–40 (addressing one community's resistance to illegitimate authority).

for the act of resistance or rebellion.²⁵ You won't have to look hard. It may be taking place right now at your neighborhood church, radio station, community college, or cantina. The story of Latino resistance needs to be told, and Latino legal scholars need to discern where the law fits in. In some periods, you may find that the law served as a staunch ally and friend; at other times, such as now, it may stand as an obstacle and roadblock to Latino hopes.

5. Close Study of Latino History, Including Primary Sources

In Plato's Allegory of the Cave, ordinary mortals watch the flickering shadows of a distant fire playing on the walls of a cave reflecting events that take place far away.²⁶ In some respects, legal scholars who rely on appellate opinions, conveniently on hand in the law library and accessed by online searches under such key words as "Latino," "English-only," and "spic" are like Plato's onlookers. Latino history is a rich fabric of ordinary lives, acts of rebellion, *corridos* and songs, newspaper accounts, and family and official records contained in church archives, diaries, and other unofficial sources. Few legal scholars are as well-versed in Latino studies, history, and literature as they should be. We include ourselves in this group and resolve to constantly strive to increase our familiarity with the full sweep of Latino history, not just the occasional conflict that made its way into some court record. Judicial opinions may or may not be representative of important tides in the affairs of a people. Is *Brown v. Board of Education*²⁷ an important case for African Americans? Derrick Bell thinks it was not.²⁸ How about *Hernandez v. Texas*²⁹ for Latinos?³⁰ What about the trial of Gregorio Cortez?³¹

6. Some Specific Projects

Specifically, we are working on the following:

25. See *id.*; HANEY LÓPEZ, *supra* note 23.

26. PLATO, *THE REPUBLIC* (G.M.A. Grube trans., Hackett Pub. Co. 1974) (date of original publication).

27. 347 U.S. 483 (1954); cf. Michael A. Olivas, *The "Trial of the Century" that Never Was: Staff Sgt. Macario Garcia, the Congressional Medal of Honor, and the Oasis Café*, 83 IND. L.J. 1391 (2008).

28. See Bell, *supra* note 22 (positing that this landmark decision was the product of a temporary alignment of white and black interests).

29. 347 U.S. 475 (1954).

30. For the view that this case, too, came about because of a temporary convergence of white and Latino interests, see generally Richard Delgado, *Rodrigo's Roundelay: Hernandez v. Texas and the Interest-Convergence Dilemma*, 41 HARV. C.R.-C.L. L. REV. 23 (2006). For a history and analysis of the case's importance, see generally "COLORED MEN" AND "HOMBRES AQUI": *HERNANDEZ V. TEXAS* AND THE EMERGENCE OF MEXICAN-AMERICAN LAWYERING (Michael A. Olivas ed., 2006).

31. See generally PEREA ET AL., *supra* note 6, at 295–97 (describing the role of the famous Latino outlaw).

1. An 800-page casebook, with Juan Perea and titled *Latinos and the Law*, illustrating all the above.³²
2. A Rodrigo chronicle for *Vanderbilt Law Review* describing how Latino legal scholars might benefit from the study of postcolonial theory.³³
3. A possible second edition of our reader, *THE LATINO/A CONDITION*,³⁴ which will replace some of the old material with new excerpts and add new chapters and themes.
4. A new course, based on the casebook we are preparing. Possibly a new certificate program, the first in the nation, entitled Latino Legal Studies, that will prepare law students for careers serving this fast-growing and underserved sector of the population.
5. Introductions and forewords to law review symposiums (including this one) and to books on emerging legal topics.
6. A new book series.
7. And possibly—if we can get there—a short article on the trial of Gregorio Cortez based on oral histories, *corridos*, folklore, and the actual trial record, if it exists.³⁵

File: Latino scholarship. Future topics. Law review symposium. Friends, e-mail list, Michael, Kevin, Juan, and anyone else who may be interested.

* * * * *

The following symposium articles impressively address key issues having to do with Latinos and the law.

In *Identity Assassination*, Keith Aoki and Kevin R. Johnson offer a sharp critique of the LatCrit movement, of which they have been founding participants. Following a brief account of LatCrit's origins, they trace its ten-year trajectory of scholarship. They assert that, despite early promise, the scholarship published in recent years does not fulfill expectations that some of the original founders had hoped for, and they criticize the group for publishing short, uneven pieces in annual symposium issues. Furthermore, they charge that many of the articles neglect to cite existing scholarship and that the group's anti-hierarchical stance leads to loss of engagement with mainstream scholars over important issues of the day, such as immigration. They warn that such dilution will lead to disinvestment in the whole enterprise, causing further deterioration. Aoki and Johnson suggest that rethinking—perhaps even severing—symposium publishing from the corporate entity might enable the group to continue mentoring junior scholars and building coalitions between various subordinated groups without the need to publish almost everything presented at the annual conference.

Margaret E. Montoya and Francisco Valdes mount a spirited defense of the LatCrit enterprise in their "*Latinas/os*" and *the Politics of Knowledge Production*. They assert

32. See DELGADO ET AL., *supra* note 15.

33. See Delgado, *Rodrigo's Corrido*, *supra* note 19.

34. See *THE LATINO/A CONDITION*, *supra* note 4.

35. See *supra* note 31 and accompanying text.

that Aoki and Johnson's critique is one employed by all critics who wish to squelch a developing movement. They describe three models of knowledge production, disdaining the imperial model for being elitist and exclusionary. They give the nod to the vanguard model for producing critical texts that challenged the status quo and withstood imperial scrutiny, but criticize it for not attending to producing continuity or community. They praise LatCrit's democratic big tent model for its interdisciplinary quality and permeable boundaries between scholarship, teaching, and activism. They also cite its openness and ability to create "safe spaces" for junior scholars to try out new ideas. They firmly reject imperialism in any form, whether in scholarship or the venue in which this scholarship is published, that is, elitist law reviews, and declare that the annual symposium is an integral part of the LatCrit enterprise. We leave it to the reader to decide who has the better argument in this exchange.

Building on the work of Michael Olivas, Ediberto Roman and Christopher B. Carbot in *Freeriders and Diversity in the Legal Academy* revisit Olivas's Dirty Dozen List that exposed law schools with no, or very few, Latino/a faculty. They find that, though many Latino/a professors have entered law teaching since Olivas spearheaded his list in the mid-nineties, the placement of Latino/a law professors does not yet reflect their achievements or ability, nor are they evenly distributed. In some cases, law schools that lacked a single Latino/a professor still do. Other top law schools play musical chairs, circulating a few prominent Latino/a professors back and forth but never offering them permanent positions. Using a concept from economic theory, Roman and Carbot accuse some leading law schools, including Harvard and Yale, of occupying the role of free riders, sitting back while other schools do the work.

In *The Inter-American System of Human Rights*, Antonio Grossman presents an approach that incorporates human rights norms with institutions such as the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, which attempt to enforce those norms. He uses case examples to show three stages in the evolution of international human rights law in Latin American countries: the first dealt with violations by dictatorial regimes during the early 1980s; the second promoted democratic processes and reforms, including the denial of amnesty to government officials who had engaged in torture; and the third, in the present era, seeks to redress inequalities and exclusions, particularly those dealing with poverty and land ownership by indigenous communities. Resources and political will to strengthen democratic institutions are necessary to successfully continue the struggle for human rights.

In her article, *Guatemala's Gender Inequality Reforms*, Christiana Ochoa examines ways that Guatemalan women have turned to international human rights to remake laws regarding gender equality. Beginning with the premise that state and region are not the only legitimate rights-grantors to citizens, she focuses on how Guatemalan women activists incorporated cosmopolitan viewpoints by affiliating with transnational women's networks advocating international human rights for women. By doing so, especially during the 1980s, they were able to foreground women's human rights issues in the 1996 Peace Accords which ended thirty-six years of civil war. Further reforms succeeded when the Inter-American Commission on Human Rights declared certain family provisions of the civil code unconstitutional. Though femicide has increased, perhaps due to resistance to the reforms, pressure from women to prevent and prosecute has risen as well.

Much writing in the school known as LatCrit (Latino-Critical) studies focuses on issues of complex intersectional identity, such as black woman, Latina lesbian, Asian-

American single mother, disabled American Indian, and the like. In *The Gender Bend: Culture, Sex, and Sexuality—A LatCritical Human Rights Map of Latina/o Border Crossings*, Berta Esperanza Hernández-Truyol addresses the predicament of Latinas who are also members of a sexual minority group. Latina lesbians often do not fit comfortably within either group, lesbians or Latinas, because certain features of their situation separate them from their counterparts who share only one of these two features. Using the analogy of a foreign language, some of whose words may not map perfectly onto their English counterparts, she describes this imperfect fit and traces its repercussions in a number of areas, including group agendas and legal doctrine. She concludes by positing that a key feature of majoritarian gay-lesbian activism—an emphasis on “coming out” (proclaiming one’s sexual orientation openly)—does not fit comfortably in Latino and Latina circles, where the culture places a high premium on modesty and not scandalizing one’s elders and family.

Mary Romero exposes the anti-immigrant strategies of the Arizona-based group Mothers Against Illegal Aliens (MAIA) in her eye-opening article “*Go After the Women.*” After describing the recent history of nativist and anti-immigrant sentiment against Mexicans, she discloses how this group and others have trained their attacks on the concept of birthright citizenship granted by the Fourteenth Amendment. By examining the discourse of mothering, she shows how two opposing notions of motherhood exist side by side: the one upholding traditional middle class Anglo values, the other demonizing Mexican immigrant mothers as breeders seeking citizenship for and through their children born on the U.S. side of the border. Abundant quotes from websites, talk shows, and newspapers demonstrate the fear and hatred of Mexicans and Mexican Americans which, in turn, fuel anti-immigrant legislation.

With thorough research and storytelling craft, Michael A. Olivas brings to our attention the story of Macario Garcia, World War II veteran and Congressional Medal of Honor recipient, in *The “Trial of the Century” That Never Was*. Garcia, returning to his home town in Sugar Land, Texas, became the focus of national attention after being refused service in a local café. In this first complete retelling of the incident and two similar subsequent ones that took place around the same time, Olivas brings together the figures and organizations that later played key roles in the events leading up to the Supreme Court decision in *Hernandez v. Texas*. Demonstrating that the mores and practices of the Jim Crow South extended far to the West to provoke discrimination against Mexican Americans as well, Olivas shows that the courageous, incremental progress by little known or forgotten heroes, such as James de Anda, John Herrera, Carlos Cadena, and Gustavo Garcia forged the path for Mexican American legal rights in the United States.

In *Who Cares Whether Judges Look “Like America”*, Sylvia R. Lazos Vargas asks if the “voice of color” has become a whisper of color. She describes the benefits of the various forms of diversity—descriptive, symbolic, and viewpoint—before concluding that though many minorities received appointments, their presence on the federal bench is still small. She contrasts the motivations of Presidents Bill Clinton and George W. Bush—showing how each one’s pragmatic compromises led to confirmation of minority judges who were diverse only descriptively and symbolically. The contentious confirmation wars of the last twenty years, she claims, have funneled viewpoint diversity into a narrow channel, excluding high profile minority candidates from either party who have been too outspoken or racially offensive. Consequently, the minority federal bench has become increasingly viewpoint-conservative. The health of

a democratic society, says Lazos, advances by resolving conflict through dialogue, of which today there is little.

Luis Fuentes-Rohwer brings to bear historical and legal analysis and political theory to determine why the status of Puerto Rico is illegitimate. In *The Land That Democratic Theory Forgot*, he questions the relationship of territorial acquisitions to self-determination and whether a democracy can impose colonial status on another people, even one whose territory it has acquired as war booty. He examines how race, mistrust, and plenary power have shaped relations between the United States and Puerto Rico since 1898. He concludes that basic standards of democratic theory, such as the obligation to obey the law, the right to citizenship, and the right to vote, do not apply in this case and make it imperative for the United States and Puerto Rico to reconfigure their political relationship.

Taking Justice Kennedy's question, "Are Cubans Hispanics?" in *Grutter* seriously, Cristina M. Rodriguez in *Against Individualized Consideration* makes a case in defense of a broad and mechanical, rather than an individualized, approach to affirmative action. She argues that three factors make this a better approach: transparency, the individual's ability to self-identify in terms of race, and the decision maker's capacity to treat race as one of many factors. She further argues that narrow tailoring of racial categories gives decision makers excessive power over racial identification of individuals or groups of applicants, shapes the way minorities perform their race, and increases intra-group tensions, especially among Cubans, island Puerto Ricans, Mexican Americans, and U.S.-born Puerto Ricans. It also freezes race into a single form, although the concept and the reality are constantly in flux.

In *Straight From the Mouth of the Volcano*, Ángel R. Oquendo crafts a first person tale-within-a-tale, recounting a law professor-narrator's role as advisor to Spanish-speaking workers in a challenge to an English-only directive by a state agency. The story's characters take the reader through organizing meetings, strategy sessions, a protest rally, and the drafting of a pleading and memorandum, grounding the claims in Title VII, the Fourteenth Amendment, and the Civil Rights Act of 1866. After a press conference and hearing, the suit is dismissed. The narrator then awakens from a nightmare and offers reflections about the invisibility of and discrimination against Latinos. Drawing on a rich mix of philosophy, literature, case law, and legal scholarship, Oquendo concludes that it is the public use of the Spanish language that focuses negative attention on Latinos. The solution he proposes is not to desist but to cleave to the language in the face of the dominant society's maniacal push for Latino assimilation and destruction of identity.

With painstaking attention to precedent, M. Isabel Medina's *Exploring the Use of the Word "Citizen" in Writings on the Fourth Amendment* argues that the practice of some judges and legal writers of using the term "citizen" in Fourth Amendment search and seizure cases is a pernicious one that they should discontinue. Referring to a citizen's right to be free from unreasonable searches and seizures, rather than a person's or an individual's right, tends to suggest that Fourth Amendment rights turn on a suspect's citizenship status when they do not. Because citizens and noncitizens alike receive protection under the Fourth Amendment, it is a serious error to suggest, as this linguistic usage does, that, for example, a perfectly legal tourist from Argentina or a technical worker legally in the U.S. on an H-2 visa lacks rights against warrantless searches and seizures. It may also be undesirable, on policy grounds, to limit constitutional rights to U.S. citizens or, more restrictively yet, to those born in this country.

